



MEDICAL BOARD OF CALIFORNIA

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Enforcement Program

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Gavin Newsom, Governor, State of California | Business, Consumer Services and Housing Agency | Department of Consumer Affairs

July 19, 2019

Steven Y. Lee, M.D.
1931 Beach Ave.
Atlantic Beach, FL 32233

RE: Physician's and Surgeon's Certificate No. C 52622
Case No. 800-2019-055281

Public Letter of Reprimand

On February 1, 2019, you entered into a Settlement Agreement with the Florida Board of Medicine wherein you were issued a letter of concern, fined, and required to complete additional continuing medical education for failing to independently confirm that a patient's endotracheal tube was correctly placed by confirming end-tidal CO2 and/or performing a laryngoscopy (Exhibit A).

These actions constitute a violation of California Business and Professions Code sections 141(a), 2234 and 2305.

Pursuant to the authority of the California Business and Professions Code section 2233, you are hereby issued this Public Letter of Reprimand by the Medical Board of California.

Kimberly Kirchmeyer
Executive Director

Exhibit A

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

Petitioner,

v.

DOH Case No. 2017-21904

STEVEN Y. LEE, M.D.,

Respondent.

SETTLEMENT AGREEMENT

Steven Y. Lee, M.D., referred to as the "Respondent," and the Department of Health, referred to as "Department," stipulate and agree to the following Agreement and to the entry of a Final Order of the Board of Medicine, referred to as "Board," incorporating the Stipulated Facts and Stipulated Disposition in this matter.

Petitioner is the state agency charged with regulating the practice of medicine pursuant to Section 20.43, Florida Statutes, and Chapter 456, Florida Statutes, and Chapter 458, Florida Statutes.

STIPULATED FACTS

1. At all times material hereto, Respondent was a licensed physician in the State of Florida having been issued license number ME 39819.
2. The Department charged Respondent with an Administrative Complaint that was filed and properly served upon Respondent alleging violations of Chapter 458, Florida Statutes, and the rules adopted pursuant thereto. A true and correct copy of the Administrative Complaint is attached hereto as Exhibit A.

3. For purposes of these proceedings, Respondent neither admits nor denies the allegations of fact contained in the Administrative Complaint.

STIPULATED CONCLUSIONS OF LAW

1. Respondent admits that, in his/her capacity as a licensed physician, he/she is subject to the provisions of Chapters 456 and 458, Florida Statutes, and the jurisdiction of the Department and the Board.

2. Respondent admits that the facts alleged in the Administrative Complaint, if proven, would constitute violations of Chapter 458, Florida Statutes.

3. Respondent agrees that the Stipulated Disposition in this case is fair, appropriate and acceptable to Respondent.

STIPULATED DISPOSITION

1. **Letter of Concern** -- The Board shall Issue a Letter of Concern against Respondent's license.

2. **Fine** - The Board shall impose an administrative fine of ***Five Thousand Dollars and No Cents (\$5,000.00)*** against Respondent's license which Respondent shall pay to: Payments, Department of Health, Compliance Management Unit, Bin C-76, P.O. Box 6320, Tallahassee, FL 32314-6320, within thirty (30) days from the date of filing of the Final Order accepting this Agreement ("Final Order"). **All fines shall be paid by cashier's check or money order.** Any change in the terms of payment of any fine imposed by the Board **must be approved in advance by the Probation Committee of the Board.**

RESPONDENT ACKNOWLEDGES THAT THE TIMELY PAYMENT OF THE FINE IS HIS/HER LEGAL OBLIGATION AND RESPONSIBILITY AND RESPONDENT AGREES TO CEASE PRACTICING IF THE FINE IS NOT PAID AS AGREED IN THIS SETTLEMENT AGREEMENT. SPECIFICALLY, IF RESPONDENT HAS NOT RECEIVED WRITTEN CONFIRMATION WITHIN 45 DAYS OF THE DATE OF FILING OF THE FINAL ORDER THAT THE FULL AMOUNT OF THE FINE HAS BEEN RECEIVED BY THE BOARD OFFICE, RESPONDENT AGREES TO CEASE PRACTICE UNTIL RESPONDENT RECEIVES SUCH WRITTEN CONFIRMATION FROM THE BOARD.

3. **Reimbursement of Costs** - Pursuant to Section 456.072, Florida Statutes, Respondent agrees to pay the Department for the Department's costs incurred in the investigation and prosecution of this case ("Department costs"). Such costs exclude the costs of obtaining supervision or monitoring of the practice, the cost of quality assurance reviews, any other costs Respondent incurs to comply with the Final Order, and the Board's administrative costs directly associated with Respondent's probation, if any. Respondent agrees that the amount of Department costs to be paid in this case is ***One Thousand Six Hundred Twenty-Two Dollars and Thirty-Two Cents (\$1,622.32), but shall not exceed Three Thousand Six Hundred Twenty-Two Dollars and Thirty-Two Cents (\$3,622.32).*** Respondent will pay such Department costs to: Payments, Department of Health, Compliance Management Unit, Bin C-76, P.O. Box 6320, Tallahassee, FL 32314-6320, within thirty (30) days from the date of filing of the Final Order. **All costs shall be paid by cashier's check or money order.** Any change in

the terms of payment of costs imposed by the Board **must be approved in advance by the Probation Committee of the Board.**

RESPONDENT ACKNOWLEDGES THAT THE TIMELY PAYMENT OF THE COSTS IS HIS/HER LEGAL OBLIGATION AND RESPONSIBILITY AND RESPONDENT AGREES TO CEASE PRACTICING IF THE COSTS ARE NOT PAID AS AGREED IN THIS SETTLEMENT AGREEMENT. SPECIFICALLY, IF RESPONDENT HAS NOT RECEIVED WRITTEN CONFIRMATION WITHIN 45 DAYS OF THE DATE OF FILING OF THE FINAL ORDER THAT THE FULL AMOUNT OF THE COSTS NOTED ABOVE HAS BEEN RECEIVED BY THE BOARD OFFICE, RESPONDENT AGREES TO CEASE PRACTICE UNTIL RESPONDENT RECEIVES SUCH WRITTEN CONFIRMATION FROM THE BOARD.

4. **Continuing Medical Education** - Respondent shall document completion of Five (5) hours of Continuing Medical Education (CME) in "Supervising Certified Registered Nurse Anesthetists" within one (1) year from the date the Final Order is filed.

5. **Continuing Medical Education – "Risk Management"** – Respondent shall complete this requirement and document such completion within one (1) year from the date the Final Order is filed. **Respondent shall satisfy this requirement in one of the two following ways:**

(a) Respondent shall complete five (5) hours of CME in "Risk Management" after first obtaining written advance approval from the Board's Probation Committee of such proposed course, and shall submit documentation of such completion,

in the form of certified copies of the receipts, vouchers, certificates, or other official proof of completion, to the Board's Probation Committee; or

(b) Respondent shall complete (5) five hours of CME in risk management by attending one full day or eight (8) hours, whichever is more, of disciplinary hearings at a regular meeting of the Board of Medicine. In order to receive such credit, Respondent must sign in with the Executive Director of the Board before the meeting day begins, Respondent must remain in continuous attendance during the full day or eight (8) hours of disciplinary hearings, whichever is more, and Respondent must sign out with the Executive Director of the Board at the end of the meeting day or at such other earlier time as affirmatively authorized by the Board. Respondent may not receive CME credit in risk management for attending the disciplinary hearings portion of a Board meeting unless the Respondent is attending the disciplinary hearings portion for the **sole** purpose of obtaining the CME credit in risk management. In other words, Respondent may not receive such credit if appearing at the Board meeting for any other purpose, such as pending action against Respondent's medical license.

STANDARD PROVISIONS

1. **Appearance** - Respondent is required to appear before the Board at the meeting of the Board where this Agreement is considered.

2. **No Force or Effect until Final Order** - It is expressly understood that this Agreement is subject to the approval of the Board and the Department. In this regard, the foregoing paragraphs (and only the foregoing paragraphs) shall have no force

and effect unless the Board enters a Final Order incorporating the terms of this Agreement.

3. **Continuing Medical Education** - Unless otherwise provided in this Agreement Respondent shall first submit a written request to the Probation Committee for approval prior to performance of said CME course(s). Respondent shall submit documentation to the Board's Probation Committee of having completed a CME course in the form of certified copies of the receipts, vouchers, certificates, or other papers, such as physician's recognition awards, documenting completion of this medical course within one (1) year of the filing of the Final Order in this matter. All such documentation shall be sent to the Board's Probation Committee, regardless of whether some or any of such documentation was provided previously during the course of any audit or discussion with counsel for the Department. CME hours required by this Agreement shall be in addition to those hours required for renewal of licensure. Unless otherwise approved by the Board's Probation Committee, such CME course(s) shall consist of a formal, live lecture format.

4. **Addresses** - Respondent must provide current residence and practice addresses to the Board. Respondent shall notify the Board in writing within ten (10) days of any changes of said addresses

5. **Future Conduct** - In the future, Respondent shall not violate Chapter 456, 458 or 893, Florida Statutes, or the rules promulgated pursuant thereto, or any other state or federal law, rule, or regulation relating to the practice or the ability to practice medicine to include, but not limited to, all statutory requirements related to practitioner

profile and licensure renewal updates. Prior to signing this agreement, the Respondent shall read Chapters 456, 458 and 893 and the Rules of the Board of Medicine, at Chapter 64B8, Florida Administrative Code.

6. **Violation of Terms** - It is expressly understood that a violation of the terms of this Agreement shall be considered a violation of a Final Order of the Board, for which disciplinary action may be initiated pursuant to Chapters 456 and 458, Florida Statutes.

7. **Purpose of Agreement** - Respondent, for the purpose of avoiding further administrative action with respect to this cause, executes this Agreement. In this regard, Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent prior to or in conjunction with consideration of the Agreement. Respondent agrees to support this Agreement at the time it is presented to the Board and shall offer no evidence, testimony or argument that disputes or contravenes any stipulated fact or conclusion of law. Furthermore, should this Agreement not be accepted by the Board, it is agreed that presentation to and consideration of this Agreement and other documents and matters by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation, consideration or resolution of these proceedings.

8. **No Preclusion Of Additional Proceedings** - Respondent and the Department fully understand that this Agreement and subsequent Final Order will in no way preclude additional proceedings by the Board and/or the Department against

Respondent for acts or omissions not specifically set forth in the Administrative Complaint attached as Exhibit A.

9. **Waiver Of Attorney's Fees And Costs** - Upon the Board's adoption of this Agreement, the parties hereby agree that with the exception of Department costs noted above, the parties will bear their own attorney's fees and costs resulting from prosecution or defense of this matter. Respondent waives the right to seek any attorney's fees or costs from the Department and the Board in connection with this matter.

10. **Waiver of Further Procedural Steps** - Upon the Board's adoption of this Agreement, Respondent expressly waives all further procedural steps and expressly waives all rights to seek judicial review of or to otherwise challenge or contest the validity of the Agreement and the Final Order of the Board incorporating said Agreement.

[Signatures appear on the following page.]

SIGNED this 31 day of January, 2019.

Steven Y. Lee
Steven Y. Lee, M.D.

IDAHO
STATE OF FLORIDA

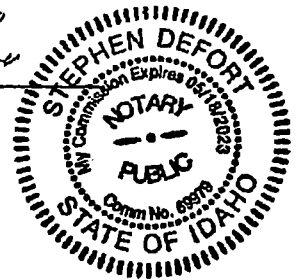
COUNTY OF BLAINE

BEFORE ME personally appeared Steven Young Lee, MD, whose identity is known to me or who produced FL Drivers License (type of identification) and who, under oath, acknowledges that his/her signature appears above.

SWORN TO and subscribed before me this 31st day of January, 2019.

Stephen Defort
NOTARY PUBLIC

My Commission Expires: 05/18/2023



APPROVED this 1st day of February, 2019.

Chad Dunn
By: Chad Dunn
Assistant General Counsel
Department of Health

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO.: 2017-21904

STEVEN Y. LEE, M.D.,

RESPONDENT.

ADMINISTRATIVE COMPLAINT

Petitioner Department of Health files this Administrative Complaint before the Board of Medicine against Respondent Steven Y. Lee, M.D., and in support thereof alleges:

1. Petitioner is the state agency charged with regulating the practice of medicine pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 458, Florida Statutes.
2. At all times material to this Complaint, Respondent was a licensed physician within the state of Florida, having been issued license number ME 39819.
3. Respondent's address of record is 820 Prudential Drive #606, Jacksonville, Florida 32207.

4. Respondent is board certified in anesthesiology.
5. On or about August 24, 2016, Patient J.M., a then thirty-seven-year-old male, presented to Baptist Medical Center in Jacksonville for an elective laparoscopic paraesophageal hernia repair and Nissen fundoplication.
6. Respondent and certified registered nurse anesthetist (CRNA) K.L. provided anesthesia care to Patient J.M.
7. At about 11:58 A.M., after Respondent fully sedated Patient J.M., CRNA K.L. intubated Patient J.M. via an endotracheal tube.
8. After CRNA K.L. placed the endotracheal tube, Respondent left the operating room to assist with another patient.
9. Within one to two minutes of intubation, Patient J.M. began experiencing respiratory distress.
10. CRNA K.L. called Respondent for help, but Respondent was unavailable.
11. Subsequently, a circulating nurse pulled Dr. M.S., an anesthesiologist, into the operating room to assist.
12. CRNA K.L. told Dr. M.S. that she thought Patient J.M. was having a bronchospasm.

13. Without first independently verifying that the endotracheal tube was correctly placed by confirming end-tidal CO2 and/or performing a laryngoscopy, Dr. M.S. began treating Patient J.M. for bronchospasm.

14. At about 12:12 P.M., Respondent returned to the operating room.

15. Based on the information given to him by Dr. M.S. and CRNA K.L. and without independently verifying that the endotracheal tube was correctly placed by confirming end-tidal CO2 and/or performing a laryngoscopy, Respondent began assisting Dr. M.S. and CRNA K.L. in treating Patient J.M. for bronchospasm.

16. At about 12:20 P.M., Respondent performed a laryngoscopy and discovered that the endotracheal tube was incorrectly placed in Patient J.M.'s esophagus, instead of his trachea.

17. At about 12:20 P.M., Respondent re-intubated Patient J.M.

18. From initial intubation at about 11:58 A.M. until re-intubation at 12:20 P.M., Patient J.M.'s end-tidal CO2 was zero.

19. At no time after initial intubation at about 11:58 A.M. until about 12:20 P.M., did anyone check the placement of Patient J.M.'s endotracheal tube.

20. As a result of the misplaced endotracheal tube and delay in diagnosis of the error, Patient J.M. suffered severe anoxic brain injury.

21. At all times material to this complaint, the prevailing professional standard of care required a physician treating a patient like Patient J.M. to independently confirm that the endotracheal tube is correctly placed by confirming end-tidal CO2 and/or performing a laryngoscopy.

22. Section 458.331(1)(t), Florida Statutes (2016), subjects a licensee to discipline for committing medical malpractice as defined in Section 456.50, Florida Statutes. Section 456.50(1)(g), Florida Statutes (2016), states medical malpractice means the failure to practice medicine in accordance with the level of care, skill, and treatment recognized in general law related to health care licensure. Section 766.102, Florida Statutes (2016), provides that the prevailing standard of care for a given healthcare provider shall be that level of care, skill, and treatment which, in light of all relevant surrounding circumstances, is recognized as acceptable and appropriate by reasonably prudent similar health care providers.

23. Respondent fell below the prevailing standard of care in his treatment of Patient J.M. by failing to independently confirm that J.M.'s

endotracheal tube was correctly placed by confirming end-tidal CO2 and/or performing a laryngoscopy.

24. Based on the foregoing, Respondent violated Section 458.331(1)(t), Florida Statutes (2016).

WHEREFORE, the Petitioner respectfully requests that the Board of Medicine enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

[Signature appears on the following page.]

SIGNED this 28th day of December, 2018.

Celeste Phillip, MD, MPH
Surgeon General and Secretary

Chad Dunn

Chad Dunn
Assistant General Counsel
Florida Bar No. 111963
DOH-Prosecution Services Unit
4052 Bald Cypress Way-Bin C-65
Tallahassee, Florida 32399-3265
(850) 558-9835
(850) 245-4684 fax
E-Mail: chad.dunn@flhealth.gov

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK *Amber Greene*
DATE DEC 28 2018

CD/sdr

PCP Date: December 21, 2018

PCP Members: Mark Avila, M.D. and Steven Falcone, M.D.

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

A request or petition for an administrative hearing must be in writing and must be received by the Department within 21 days from the day Respondent received the Administrative Complaint, pursuant to Rule 28-106.111(2), Florida Administrative Code. If Respondent fails to request a hearing within 21 days of receipt of this Administrative Complaint, Respondent waives the right to request a hearing on the facts alleged in this Administrative Complaint pursuant to Rule 28-106.111(4), Florida Administrative Code. Any request for an administrative proceeding to challenge or contest the material facts or charges contained in the Administrative Complaint must conform to Rule 28-106.2015(5), Florida Administrative Code.

Mediation under Section 120.573, Florida Statutes, is not available to resolve this Administrative Complaint.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.